

INITIAL STATEMENT OF REASONS:

The California Department of Corrections and Rehabilitation (CDCR) proposes to amend sections 3054, 3054.1, 3054.3, 3054.4, 3054.5, 3054.6 and 3054.7 of the California Code of Regulations (CCR), Title 15, Division 3, concerning the Religious Diet Program.

In 2006, the CDCR adopted its existing regulations pertaining to inmate religious diets. Those regulations made provisions for at least two religious dietary options. The first religious diet option is the Jewish kosher diet program. Under the existing regulations for that program, kosher meals with meat are made available to Jewish inmates, as determined by a Jewish Chaplain. The second religious diet option is the religious vegetarian diet. Under the existing regulations for that diet, vegetarian meals are made available to any inmates who require them based on a religious need, as determined by a chaplain for any faith.

The existing regulations were intended to offer religious dietary accommodations for inmates, subject to the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA). These regulations nevertheless did not include religious dietary accommodations specifically for Muslim inmates.

Currently, there are other correctional systems and institutions within the nation that offer halal meat as a religious accommodation to Muslim inmates. Halal meat is religiously prepared meat that is slaughtered to Islamic specifications. The CDCR has now determined that it is necessary to amend its own regulations to provide a halal meat option. A halal meat option would bring CDCR into further compliance with the RLUIPA and would assist CDCR to defend against pending litigation regarding its existing religious diet regulations.

This action would accordingly make provisions for a new halal meat alternate program, as a third religious dietary option for inmates. The halal meat alternate program would be available in all CDCR adult institutions statewide. Participation in the program would be open to Muslim inmates and other inmates with a religious need to consume halal meat, as determined by a Muslim Chaplain.

Additionally, this action would amend the existing regulations for vegetarian diets. The action would modify the regulations to clarify that, along with its being available to inmates with a religious need, the vegetarian diet option shall also be available to inmates who seek that option based on a personal or ethical need. A personal or ethical need does not need to be religious in nature. The name of this dietary option would accordingly be shortened from “religious vegetarian diet” to “vegetarian diet.”

Finally, this action would nominally change the rate to be charged, from \$.85 to \$1.00, for meals that are served to non-inmates and for the reimbursement of state purchased food. That rate change would help to offset increased departmental costs for food services.

This entire action is necessary to accommodate the dietary needs of Muslim inmates and other inmates. The purpose of this action is to avoid future costly litigation and unnecessary expenses to the taxpayers of the State of California.

The Department has made an initial determination that the action will not have a significant adverse economic impact on business. Additionally, there has been no testimony or other evidence provided that would alter the Department’s initial determination.

The Department has determined that this action imposes no mandates on local agencies or school districts, or a mandate, which required reimbursement pursuant to Part 7 (Section 17561) of Division 4.

The CDCR has determined that no reasonable alternatives to the regulations have been identified or brought to the attention of the Department that would lessen any adverse impact on affected private persons or small business than the action planned.

The CDCR has determined that no alternative considered would be more effective in carrying out the purpose of this action, or would be as effective and less burdensome to affected private persons, than the action proposed.

In proposing amendments to these regulations, the Department has not identified or relied upon any technical, theoretical, or empirical study, report, or similar document.

3054. Religious Diet Program

Subsection 3054(a) is amended to reflect the renumbering of section 3054.3 to 3054.4. As referenced in this subsection, the applicable regulation for inmate participation in a religious diet is now located at section 3054.4.

Subsection 3054(b) is unchanged.

Subsection 3054(c) is amended to clarify that religious meals will not be restricted based on classification, housing placement, or transfers between institutions. Additional language also clarifies that transferred inmates shall have the ability to continue in their current Religious Diet Program at the receiving institution, barring medical needs or other extraordinary circumstances. Extraordinary circumstances that might prevent a transferred inmate from continuing in his or her Religious Diet Program may include, but are not limited to, natural disasters or security emergencies such as prison riots.

Subsection 3054(d) is unchanged.

Subsection 3054(e) is amended to show the change from two existing religious diet options to include a new third religious diet option. This third option, the halal meat alternate program, is described in section 3054.3.

Subsections 3054(e)(1) and (2) are unchanged.

New subsection 3054(e)(3) is adopted to list a new third religious diet option for halal meat alternates. The halal meat alternate program is described in section 3054.3.

Title to section 3054.1 is amended to shorten the title of this section from “Religious Vegetarian Diet” to “Vegetarian Diet.” As discussed below, the amended section 3054.1 does not limit vegetarian diets solely to inmates with a religious need.

3054.1. Vegetarian Diet.

Section 3054.1 is amended to add that, in addition to inmates who have a religious need for it, inmates with a personal or ethical need for vegetarian meals may also participate in the vegetarian diet option. A personal or ethical need for a vegetarian diet, such as an aversion to killing animals or health concerns about meat, does not have to be religious in nature. An inmate may accordingly participate in the

vegetarian diet option based on religious, personal, or ethical dietary needs, as determined by a chaplain for any faith. Because the amended section 3054 does not limit vegetarian diets solely to inmates with a religious need, the name of the religious diet option is accordingly shortened, with the word “religious” deleted from it.

Section 3054.2. Jewish Kosher Diet.

Subsections 3042.2(a) through 3042.2(g)(1) are unchanged.

Subsection 3042.2(g)(2) is amended to make a non-substantive grammatical correction.

Existing section 3054.3 is relocated and renumbered 3054.4

3054.3. Halal Meat Alternate Program

New section 3054.3 is adopted to establish the new halal meat alternative program, and to set forth how it shall be standardized and administered by the institutions.

New subsection 3054.3(a) is adopted to provide that halal meat alternates shall be available at all institutions. Muslim inmates and other inmates with a religious dietary need may participate in the halal meat alternate program, as determined by a Muslim Chaplain.

New subsection 3054.3(b) is adopted to provide that all institutions will adhere to standardized departmental halal meat alternates, and approved procedures for procuring and serving halal meats.

New subsection 3054.3(c) is adopted to provide that each institution shall arrange for ongoing and appropriate training for all inmate workers, custody, and food service employees involved in the supervising, ordering, and serving of halal meats.

New subsection 3054.3(d) is adopted to provide that the halal meat alternate program shall be administered in accordance with the regulatory Article for CDCR food services. A Muslim Chaplain shall: (1) Determine entry into the halal meat alternate program, oversee the program, and determine inmate compliance violations; and (2) Review each institution’s halal meat alternate program annually and provide results of the review to the Correctional Food Manager.

Existing section 3054.3 is relocated and renumbered 3054.4 and is amended.

3054.4. Participation in a Religious Diet Program

Subsection 3054.4(a) is amended to incorporate new revisions, as of November 2008 (11/08), to the CDCR Form 3030, Religious Diet Request. This form now includes language concerning the halal meat alternative program. The revised Form 3030 is part of the proposed regulatory package and has been made available for review.

Subsection 3054.4(b)(1) is amended to change the number of religious diet options from two to three, in view of the new halal meat alternate program as described in section 3054.3.

Subsection 3054.4(b)(3) is amended to incorporate new revisions, as of November 2008 (11/08), to the CDCR Form 3030-A, Religious Diet Program Agreement and to the CDCR Form 3030-D, Religious Diet Cancellation Request. These forms now include language concerning the halal meat alternative program.

The revised Forms 3030-A and Form 3030-D are part of the proposed regulatory package and have been made available for review.

Existing section 3054.4 is renumbered 3054.5 and is unchanged.

Existing section 3054.5 is renumbered 3054.6.

3054.6. Meals Served to Non-Inmates.

New section 3054.6 is amended to reflect a change in the rate charged for meals served to state employees and persons other than official guests in state-operated dining room maintained and operated for inmates. The rate is changed from \$.85 to \$1.00. This change is necessary to help offset increased costs in the departmental food service budget.

Existing section 3054.6 is renumbered new section 3054.7

New section 3054.7 is amended to reflect a change in the rate charged for “reimbursement for state purchased food” (for example, outside guests attending inmate banquets, luncheons, or other special events where state-purchased food is provided. The rate is changed from \$.85 to \$1.00. This change is necessary to help offset increased costs in the departmental food service budget.